

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 931 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?
No

NK CORPORATION & ORS

Versus

STATE OF GUJARAT & ANR.

Appearance:

Shri P.R. Abichandani, Advocate, for Shri Y.N.
Oza, Advocate, for the Petitioners

Shri T.H. Sompura, Asst. Govt. Pleader, for the
Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 15/07/96

ORAL JUDGEMENT

The order passed by and on behalf of the State
Government (respondent No. 1 herein) on 29th April 1983
under sec. 34 of the Urban Land (Ceiling and Regulation)

Act, 1976 (the Act for brief) is under challenge in this petition under art. 226 of the Constitution of India. By its impugned order, respondent No. 1 directed the petitioners to maintain status quo with respect to certain parcels of land bearing Final Plot No. 153 and 157 in T.P. Scheme No. 1 admeasuring in all 12392 square meters situated at Memnagar within the urban agglomeration of Ahmedabad (the disputed lands for convenience) in respect of which permission under sec. 21(1) of the Act was granted by the Competent Authority at Ahmedabad (respondent No. 2 herein) by his order passed on 1st September 1982.

2. It is not necessary to set out in detail the facts giving rise to this petition. By the order passed on 1st September 1982, respondent No. 2 granted permission to the petitioners under sec. 21(1) of the Act with respect to the disputed lands. Its copy is at Annexure A to this petition. It appears to have come to the notice of the concerned officer of respondent No. 1. He appears to have found it not according to law. Its suo motu revision under sec. 34 of the Act was contemplated. Pending issue of the show-cause notice for revising the order at Annexure A to this petition, an interim direction was issued by the order passed on 29th April 1983 directing the petitioners to maintain status quo with respect to the disputed lands. Its copy is at Annexure B to this petition. The aggrieved petitioners have thereupon approached this Court by means of this petition under art. 226 of the Constitution of India for questioning its correctness.

3. As rightly submitted by learned Advocate Shri Abichandani for the petitioners, no interim direction could be issued under sec. 34 of the Act without issuing the show-cause notice thereunder for revising the impugned action or order passed by respondent No. 2. Learned Advocate Shri Abichandani has relied on the Division Bench ruling of this Court in the case of Vasantlal Chhotalal Khandwala v. The State of Gujarat and others reported in AIR 1994 Gujarat 26 in support of his aforesaid submission. It has been urged that no show-cause notice has preceded the interim order at Annexure B to this petition. Learned Assistant Government Pleader Shri Sompura for the respondents has, on instructions, stated that the show-cause notice under sec. 34 of the Act was issued on 15th September 1983 for the purpose of revising the order at Annexure A to this petition. It thus becomes clear that the show-cause notice was issued after the order of interim direction at Annexure A to this petition. This is not permissible in

view of the aforesaid binding Division Bench ruling of this Court.

4. In the result, this petition is accepted. The order passed by and on behalf of the State Government on 29th April 1983 at Annexure B to this petition is quashed and set aside. This judgment of mine shall not preclude the State Government from proceeding further pursuant to the show-cause notice issued on 15th September 1983 under sec. 34 of the Act for taking the order at Annexure A to this petition in suo motu revision. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.
